

**BOARD OF SUPERVISORS**

**GILA COUNTY, ARIZONA**

Date: April 27, 2004

**JOSÉ M. SANCHEZ**

Chairman

**JOHN F. NELSON**

Clerk of the Board

**RONALD A. CHRISTENSEN**

Vice-Chairman

By: Marian Sheppard  
Chief Deputy Clerk

**CRUZ SALAS**

Member

Gila County Courthouse  
Globe, Arizona

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PRESENT: José M. Sanchez, Chairman; Ronald A. Christensen, Vice-Chairman; Cruz Salas, Member; John F. Nelson, County Manager/Clerk; and, Bryan Chambers, 2<sup>nd</sup> Chief Deputy County Attorney.

The Gila County Board of Supervisors met in Regular Session at 10:00 a.m. this date. Marian Sheppard led the Pledge of Allegiance and Dixie Mundy delivered the Invocation.

At this time each Board member presented a brief summary of current events as allowed by A.R.S. §38-431.02(K). No action was taken on any items that were presented.

Jacque Griffin, Assistant County Manager/District Librarian, addressed agenda item number three, a presentation on noxious and invasive weeds in Gila County. Mrs. Griffin introduced speaker Jim Horsley of the Arizona Department of Transportation (ADOT). Mr. Horsley advised that he was presenting before the Board of Supervisors today to request that Gila County partner with ADOT in identifying noxious and invasive weeds and mapping the problem areas. He advised that partnering could lead to discussions of control measures and monitoring of results in the future. A summary of Mr. Horsley's presentation is as follows:

- ADOT's Intermodal Transportation Division is divided into two departments; New Construction which is funded by federal dollars and ruled by federal regulations, and Maintenance which is regulated and funded by the State. Maintenance is further divided into the Natural Resources, Landscape and Highway Maintenance sections. Mr. Horsley is the Manager One for the Phoenix group of the Natural Resources Management Section. The Natural Resources Management section is primarily responsible for the green and growing within the native or natural right-of-way areas.
- ADOT became interested in noxious weeds ten years ago because Camelthorn grew along the right-of-ways of Interstate 40 near Winslow. Camelthorn has a propensity to grow through an asphalt overlay and will readily colonize the shoulder and grow to the moisture trapped beneath the road surface. An overlay costs \$1M per mile and Camelthorn will grow through asphalt in less than one month.
- Noxious weed regulation was created by Executive Order and is enforced by state regulations. There is a Federal Noxious Weed List, which is preventive and lists plant species not believed to be present in the United States. States have created their own lists and Arizona lists 52 species known to be present to some extent in the State.
- The terms noxious, invasive and exotic species are used interchangeably even by professionals within this field. Noxious is a legal definition of plants whose management or control is mandated by State regulation. Invasive is a description of a plant whose characteristics or adaptations lead to what is described as weeds. Exotic describes plants which are not native to an area and implies their invasiveness. Many agencies are restricted to control or management of only those species listed by the State. In addition, nearly all agencies have a list of species of concern to their land management.
- The scope of the problem is that ADOT spends \$2M annually to control invasive species. Transportation corridors are responsible for nearly 90% of the spread of noxious weeds. Seeds and plants are transported long

distances by people, vehicles, wind currents or maintenance activities within the right-of-way.

- There are four species of weeds that are the biggest threat in Gila County; Camelthorn, Starthistle, Fountain Grass and Buffel Grass.
- The management implications are these species pose a health threat which is a risk for economic loss, contribute to the biological degradation and change the native plant landscape. They also pose a legal liability. Cases exist where landowners have litigated for damages from untreated infestations.
- The key is prevention versus eradication afterwards.

Mrs. Griffin introduced Ms. Patty Fenner, Noxious Weed Program Manager for the United States Department of Agriculture (USDA), Tonto National Forest (TNF). Ms. Fenner advised that the TNF is the only Forest in the State which has assigned one person the responsibility for noxious weeds management. A summary of Ms. Fenner's presentation is as follows:

- The infestation of weeds in Arizona is much less than in other states such as Montana and Colorado.
- Most of Arizona's noxious and invasive weeds are local and small. Weeds are presently removed by hand-pulling or being sprayed with herbicides.
- Arizona is "on the edge" with respect to its management of noxious and invasive weeds. If control efforts are not made by all owners of land, the problem could escalate rapidly.
- Cooperation and partnering needs to occur between private land owners and the TNF in order to effectively control the infestation of weeds.
- Educating other government entities, special use groups and the public about the causes and means by which weeds spread from one area to another and prevention methods is a primary goal of the TNF.
- Arizona is in the process of implementing a Weed-Free Hay Certification Program which will be administered by the Arizona Crop Improvement Association, an association that is sanctioned by the State of Arizona.

National standards will be used to inspect and certify that hay fields are weed-free.

- The TNF has partnered with ADOT on a project to use herbicides and other means to eradicate weeds on right-of-ways on federal and state highways throughout Arizona.
- The environmental assessment of the highways is within two weeks of completion. At that time, the TNF and ADOT will begin treating the weeds.
- Relationships between the TNF and environmentalists and ranchers have improved as a result of joint efforts being made to eradicate weeds in Arizona. Environmentalists and ranchers view noxious weeds as a very serious threat to endangered wildlife and domestic livestock.
- The three northern Arizona forests have completed a draft Environmental Impact Study.
- The TNF is conducting its own environmental assessment, which is entitled Integrative Education Management for Treatment of Weeds on Our Forests.
- The TNF is requesting recommendations from Gila County on methods to involve the public in this effort.

Mrs. Griffin introduced Brian Jennings of the Gila County Public Works Division. Mr. Jennings advised that prior to his employment with Gila County, he was involved in weed management programs with the Tonto Natural Resources Conservation District and Tonto Weed Management Association. He advised that the Gila County Public Works Division partnered with the University of Arizona Cooperative Extension Office and the Tonto Weed Management Association on a Tonto Basin Invasive Plants Mapping Project. Through the use of a Global Positioning System (GPS), noxious and invasive weeds have been identified in the Tonto Basin area. Other areas throughout Gila County will be mapped in the future. Mrs. Griffin advised that Weed Management Associations primarily deal with private lands. She further advised that Gila County is working with other agencies in addition to the entities that have presented and have been named today. Steve Stratton,

Public Works Division Director, advised that a proposal is underway to train the Division's road crews and engineering staff on proper identification of noxious and invasive weeds. Mr. Stratton invited other County departments involved in land issues to attend the training. He advised that Mr. Jennings will provide training in the southern portion of Gila County known as the Copper Region and Eddie Wisdom will provide training in the northern portion of Gila County known as the Timber Region. Mr. Stratton advised that once staff has been trained, 6 to 8 GPS units will be placed on heavy equipment so that when noxious weeds are identified in a particular area, the equipment operator will utilize the GPS unit to map the affected area. The maps will be used for future weed spraying and removal. Each Board member commented throughout the presentations and all agreed that Gila County is moving in the right direction by partnering with other agencies, and that continued efforts need to be made. The Board thanked each presenter.

Dixie Mundy, Elections Director, requested the approval of an Order calling for a special recall election of the governing board members of the Christopher-Kohl's Fire District. She asked the Board to review and inspect the following original documents: recall petition, application for recall serial number, and signature certification by the County Recorder. Ms. Mundy also presented the Board with a summary sheet of the dates and events of the recall effort up to today's meeting. She advised that beginning on December 11, 2003, an application for serial number was filed for each member of the Christopher-Kohl's Fire District governing board. In this case, the applicant filed against each Board member, so essentially there are three recall efforts going on simultaneously. Ms. Mundy advised that the applicant had 120 days or until April 9, 2004, to submit the signed petitions. The petitions were required to contain a minimum of 40 signatures and Ms. Mundy advised that the petitions were filed before the deadline. She advised that only two petitions were rejected because the serial numbers at the bottom of the front side of each page was incorrect. Ms. Mundy advised that 51 signatures were filed to recall

Jerry Fischer, 51 signatures were filed to recall Mike Marazza, and 50 signatures were filed to recall Power Webb. She advised that each of the three board members has chosen to submit a statement of defense that will be published on the ballot along with a statement outlining the grounds for the recall. Chairman Sanchez thanked Ms. Mundy for the thorough explanation of the recall process. Vice-Chairman Christensen asked Ms. Mundy to read aloud the Order which states that the election shall be held on September 7, 2004. Upon motion by Vice-Chairman Christensen, seconded by Supervisor Salas, the Board unanimously approved the Order. **(A copy of the order is permanently on file in the Board of Supervisors office.)**

Bryan Chambers requested the approval of an Amendment to Contract between Superstition Mountain Mental Health Center and Gila County increasing the day rate (inclusive of medical services) from \$460 to \$600 for Title 36 involuntary mental health evaluation treatment, effective April 1, 2004. Mr. Chambers advised that upon Court order the County is obligated to provide mental health evaluation and treatment for up to 25 days. He further advised that the proposed rate of \$600 per day is the same rate being charged to Pinal County. Mr. Chambers stated, "Although \$600 sounds like a substantial increase, we would be forced to go elsewhere and pay a lot more." Supervisor Salas advised that this service is needed and it is the County's responsibility to comply with court orders. The Board and Mr. Chambers entered into a discussion on the number of new clients and repeat clients. Chairman Sanchez advised that Mr. Ted Thayer submitted a Public Participation Form requesting to speak to this issue. Mr. Thayer advised that he has visited the facilities at the Superstition Mountain Health Center on various occasions and that he is in support of this Board action. Upon motion by Supervisor Salas, seconded by Vice-Chairman Christensen, the Board unanimously approved the Amendment.

Upon motion by Vice-Chairman Christensen, seconded by Supervisor Salas, the Board convened into Executive Session at 12:24 p.m. for the

consideration of BHP Copper Inc. v. Gila and Pinal Counties and ADOR (Arizona Department of Revenue) TX2004-000348/TAX04-0244 and authorization for the Arizona Attorney General's Office to represent Gila County.

Upon motion by Supervisor Salas, seconded by Vice-Chairman Christensen, the Board reconvened into the regular session at 1:24 p.m. At the request of the Board, Mr. Kenneth Love, Assistant Attorney General with the Arizona Attorney General's Office, stated "....We come to you today with a proposal for settlement of two tax cases. One is TX2003-000450 and the other is one which I have previously referred to which is TX2004-000348, that's the refund case. For the record, that's a matter in which BHP Copper has sought tax refunds for tax years 2000 through 2003. We've reached the stage in negotiations concerning both of those matters where BHP has responded favorably to a settlement proposal. At this point I'd like to put the terms of the settlement proposal before the Board. Basically, the terms are as follows: BHP shall not receive any refunds of amounts paid for property taxes for tax years 2000 through 2003 for the Pinto Valley Mine. The second point is that BHP will dismiss with prejudice with each party to bear its attorneys' fees, costs and expert witness fees all of the claims asserted or subject to being asserted in the 2000 through 2003 refund case. The third point is that for tax year 2004, BHP will agree to the classification of the entire Pinto Valley Mine as Class 1 property. The next point is that for tax year 2004, the Pinto Valley Mine, all of which will be classified as Class 1 property shall be valued at \$5.8M. Upon execution of the settlement agreement that contains those terms, BHP will dismiss with prejudice with each party to bear its attorneys' fees, costs and expert witness fees all claims that they have asserted or which are subject to being asserted concerning BHP's tax year 2004 valuation and the parties will file a stipulated judgment with the tax court to outline the terms of the settlement. As a final matter, Pinto Valley Mine shall continue to be classified in its entirety as Class 1 property in tax year 2005 and as long as any portion

of the mine would subject the mine to classification as a producing mine. Those are the points of the proposal at this point that I would ask the County, this Board, to consider in the form of a motion.” Supervisor Salas stated, “Mr. Chairman, I move that we approve the motion that has been expressed to us by Mr. Kenneth Love of the Arizona Attorney General’s Office representing Gila County.” Vice-Chairman Christensen seconded the motion and the vote passed unanimously.

There being no further business to come before the Board of Supervisors, Chairman Christensen adjourned the meeting at 1:31 p.m.

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José M. Sanchez, Chairman

ATTEST:

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John F. Nelson, County Manager/Clerk